

**FIRST AMENDMENT TO
BUS STOP ACCESSIBILITY SIDEWALK PROJECT
INTERLOCAL COOPERATION AGREEMENT
CITY OF AUSTIN AND CAPITAL METRO**

This First Amendment (this "Amendment") to Interlocal Cooperation Agreement is made and entered into by and between the City of Austin, Texas (the "City") and Capital Metropolitan Transportation Authority ("Capital Metro"), a political subdivision of the State of Texas organized under Chapter 451 of the Texas Transportation Code, hereinafter sometimes collectively referred to as the "Parties," upon the premises and for the consideration stated herein.

WHEREAS, Capital Metro and the City entered into that certain Interlocal Agreement (the "Agreement") dated effective September 14, 2011, for the cooperative development and construction of accessible sidewalks and associated pedestrian improvements at and in the vicinity of Capital Metro bus stops on its Fixed Route Bus Transportation System (hereinafter referred to as the "Project"); and

WHEREAS, the Parties presently desire to amend the Agreement to provide for an extended contract term and additional funding for the Project as described herein; and

WHEREAS, the Parties intend to conform to the Agreement, as amended hereby, in all respects with the Interlocal Cooperation Act, Texas Government Code Chapter 791;

NOW, THEREFORE, the Parties agree as follows:

1. Additional Term.

Subject to the availability of funding, this Amendment will automatically renew from year to year for a term of six (6) years and will continue in force and effect until the completion of the warranty period for the then applicable portions of the Project still in force and effect and any litigation or other matters surviving the completion of the Project, unless terminated earlier by the Parties.

2. Additional Financial Considerations.

- (a) Capital Metro and City will provide additional funding for their respective portions of the Project as set forth in **Exhibit "A"** of the ILA.
- (b) Capital Metro desires to continue and expand the bus stop accessibility sidewalk program which is provided for in the September 14, 2011 ILA. The term is being increased by six (6) years as detailed in item 1 above. The scope of needed construction and management activities for the full six (6) year period cannot be completely quantified at this time. It is projected however that over the six (6) year period that approximately \$10,000,000 could be utilized for project costs which include both

construction and management activities. The Parties hereby agree to establish the financial needs for the continuation of the program on an annual basis consistent with the budgetary schedules of City and Capital Metro and the funding provisions of the ILA. Contracts solicited under this Amendment should have the flexibility to be awarded on a multi year basis and must contain the federal clause provisions as provided for in the ILA.

- (c) The City will award work based on Project development plans, processes and procedures set forth in the Agreement and the availability of funding.
- (d) Capital Metro will provide its funding to the City no later than thirty (30) days after the delivery of an acceptable invoice for the Work to Capital Metro, unless otherwise agreed to by the Capital Metro and the City in writing. Any additional funding will require the approval of Capital Metro.
- (e) Capital Metro may fund some projects from local funding sources only (Budgeted Capital Improvement Funds) in which case federal clause requirements would not apply and COA IDIQ contractors may be utilized to implement such projects which would be specified by CMTA.

3. Miscellaneous.

- (a) Multiple Counterparts. This Amendment may be executed in multiple counterparts and each of which will constitute an original.
- (b) Number and Gender Defined. As used in this Amendment, whenever the context so indicates, the masculine, feminine, or neuter gender and the singular or plural number shall each be deemed to include the others.
- (c) Entire Agreement. This Amendment incorporates by reference the Agreement executed September 14, 2012 (CMTA HB#598312) between Capital Metro and the City, the recitals set forth above and **the attached exhibits**. This Amendment, together with the Agreement (CMTA HB#598312) contains the complete and entire understanding between the Parties respecting the matters addressed herein, and supersedes all prior negotiations, agreements, representations, and understanding, if any, between the parties respecting the construction of the Project. By their execution and delivery of this Amendment neither Party waives or releases any default hereunder. This Amendment may not be modified, discharged, or changed in any respect whatsoever except by a further agreement in writing duly executed by authorized representatives of the Parties.
- (d) If there is a conflict between the terms of this Amendment and the Agreement the terms of this Agreement will control.

- (e) Effect of Amendment. This Amendment amends the Agreement only as set forth herein. Otherwise the Agreement, as amended, is hereby ratified, approved and confirmed.
- (f) Current Funds. The party or parties paying for the performance of governmental functions or services shall make payments therefore from current revenues available to the paying party.
- (g) This Amendment will be effective as of the date of the last Party to sign.

This Amendment will be effective when fully executed by the City and Capital Metro.

CITY OF AUSTIN, TEXAS

By: _____

Name: _____

Title: _____
Authorized Representative

Date: _____

Reviewed and Commented on:

Assistant City Attorney

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

By: _____
Linda Watson, President/CEO

Date: _____

Approved as to Form:

Capital Metro Attorney

EXHIBIT "A"